

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14172, of the Church of the Pilgrims, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use part of the second floor of the subject premises as a child development center by the School for Friends of Washington, D.C. for twenty-four children, ages two through four years, in an R-3 District at premises 2201 P Street, N.W., (Square 2510, Lot 825).

HEARING DATE: September 19, 1984
DECISION DATE: October 3, 1984

FINDINGS OF FACT:

1. The applicant requested an expedited hearing. The request was denied by the Executive Director of the Zoning Secretariat. The time required to advertise applications under the Zoning Regulations and the Supplemental Rules of Practice and Procedure before the BZA prohibited the application from appearing on any agenda prior to September, 1984.

2. The subject premises, known as 2201 P Street, N.W. is located on the west side of 22nd Street north of the intersection of 22nd and P Streets, N.W. The property is located in an R-3 District.

3. The subject site occupies approximately fifty percent of the square within which it is located. It is improved with a stone church, known as the Church of the Pilgrims, and an adjoining two story plus basement structure used as church offices and an educational facility. The remainder of the site is devoted to parking for approximately twenty-five cars. The parking areas of the site are accessed from 22nd Street.

4. The subject square is located in an R-3 District. Aside from the church, other uses in the square include row dwellings and a moderate density apartment house. North of the site, along Massachusetts Avenue, is a D/R-3 District. This District is characterized by row, semi-detached and occasional detached structures used as embassies. East of the site, portions of the surrounding area are zoned SP-1, R-5-D, and C-2-C. The SP-1 District runs along Florida Avenue and includes the Cosmos Club at the intersection of Florida Avenue and 22nd Street, N.W. The R-5-D District in proximity to the subject site is developed with both a high

and a moderate density apartment structure. The C-2-C District is characterized by mixed uses with retail uses predominating at street level. A small C-2-A District containing a gasoline service station is located at the intersection of 22nd and P Streets, N.W. West of the site, across 23rd Street, N.W., is the Rock Creek and Potomac Parkway.

5. The applicant is seeking a special exception under Paragraph 3101.41 to establish a child development center in the Church of the Pilgrims' educational building. The proposed center is for twenty-four children ages two to four. The center's hours will be from 8:00 A.M. to 6:00 P.M. It will be operated by the School for Friends of Washington, D.C. The School for Friends currently operates a child development center at the Washington Friends Meeting House, located approximately two blocks away at Decatur Place and Florida Avenue, N.W. The School for Friends must relocate because it has outgrown its facilities.

6. The granting of a special exception requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.41. The applicant also must demonstrate under Sub-section 8207.2 that the relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property.

7. Paragraph 3101.41 of the Zoning Regulations provides that a child development center may be permitted in a Residential District if approved by the BZA provided that:

- A. The center shall be capable of meeting all applicable code and licensing requirements.
- B. The center shall be so located and designed as to create no objectionable traffic condition and no unsafe condition for picking-up and dropping-off children.
- C. The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.
- D. The center, including any outdoor play space provided, is so located and designed that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it

shall deem necessary to protect adjacent and nearby properties.

- E. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between such play area and the center itself.
- F. The Board may approve more than one child development center in a square or within 1,000 feet of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations or other similar factors.
- G. Before taking final action on an application for such use, the Board shall submit the application to the D.C. Department of Consumer and Regulatory Affairs, D.C. Department of Public Works and the D.C. Office of Planning for review and written reports. The referral to the Department of Consumer and Regulatory Affairs shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

8. The Service Facilities Regulation Administration (SFRA) of the Department of Consumer and Regulatory Affairs, has conducted a preinspection of the subject premises. The preinspection revealed minor deficiencies, e.g. peeling paint, damaged bathroom tiles, etc., which must be corrected before a license can be issued. Based on its preinspection, SFRA staff concluded that upon correction of the noted deficiencies, the subject premises will be suitable for the proposed child development center. The applicant testified that it is in the process of correcting the deficiencies and that the corrections will be finished prior to the final licensing inspection.

9. Approximately eight-five percent of the children live in the immediate neighborhood within walking distance of the proposed center. The remaining fifteen percent will be picked up and dropped-off by cars on site in the parking lot adjacent to the rear entrance to the educational building. This lot is accessed from 22nd Street, N.W. Children will walk through the playground to the building entrance. Entry No. 8, which is the door to be used to get into the classrooms, is on the west side of the Church, and is accessible only through the parking lot. Each family will have a key to Entry No. 8, and parents must bring their children inside the building for drop-off. There will be no "meet and greet" curbside service. Twenty-second Street is a busy southbound street with no parking allowed at any time

of the day on the west side. The Church parking lot is the most convenient way to enter the school.

10. A staff of five will be employed to operate the proposed center, only one of whom will drive to work. Parking is available on-site in an existing parking lot containing approximately twenty-five spaces. The applicant stated that an arrangement has been made with the Church to reserve five spaces for the exclusive use of the center during school days. The remaining staff will walk or use public transportation.

11. The educational building containing the proposed child development center is separated from all but two properties in the square. The separation results because of the educational building's rear yard setback, an intervening twenty foot public alley, and the rear yard setback of nearby properties. The two properties most directly impacted are alley dwellings directly bordering the Church's rear property line. The proposed play area is located between the property line of the alley dwellings and the rear wall of the educational building. The play yard is screened by a wooden stockade type fence approximately five feet high on the north and west sides. The south and east sides are bounded by the walls of the church.

12. The applicant will not be using any off-site play area.

13. There is no other child development center in the square or within 1,000 feet of the subject center other than the Headstart program on the first floor at the Church of the Pilgrims. The School for Friends met with representatives of the Headstart facility as well as Capital Headstart, and has worked out a cooperative use agreement for the outdoor play area. The Headstart program's hours are from 9:00 A.M. to 3:00 P.M. All drop-off and pickup is done via a D.C. school bus which parks on 22nd Street. Headstart uses Entry No. 6, to which the School for Friends does not have access. The Headstart program is a Federally funded community action program designed to give low-income pre-school children preparation for school. The School for Friends is primarily a neighborhood daycare and nursery school.

14. The Board finds that the existence of both facilities in the subject structure will have no adverse cumulative affect on the immediate neighborhood because of the cooperative use agreement.

15. The Office of Planning, by report dated September 12, 1984, recommended approval of the application. The Office of Planning reported that the center complies with the requirements set forth in Paragraph 3101.41. Also, the

potential adverse impacts of the center appear to be nonexistent. Thus, the center will not tend to affect adversely the use of neighboring properties. Finally, the proposed center provides a neighborhood service for which there is a need both in the subject neighborhood and citywide. The Board concurs with the reasoning and recommendation of the Office of Planning.

16. The Department of Public Works, by memorandum dated August 30, 1984, reported that the property fronts on 22nd Street a one-way southbound minor arterial in the vicinity of the site. The roadway is thirty-two feet wide and parking is prohibited on both sides at all times between P and Q Streets. Parking is available on site in an existing parking lot containing approximately twenty-five parking spaces. An arrangement has been made with the Church to reserve five spaces for the exclusive use of the center during school days. The primary hours of operation for the center will be between 8:00 A.M. and 6:00 P.M. Eighty-five percent of the children live in the immediate neighborhood, within walking distance of the center. The remaining fifteen percent will be picked up and dropped off by car on-site in the parking lot. In the estimation of the DPW, the proposed child development center would not have a significant effect on transportation conditions in the surrounding area. The Board concurs with the recommendation of the DPW.

17. The Dupont Circle Citizens Association (DCCA), by letter dated September 18, 1984, and by testimony at the public hearing, recommended approval of the application. The DCCA reported that its Zoning Committee had reviewed this application and found it consistent with the zoning objectives of DCCA. The Association appreciated the need to preserve the integrity of the Zoning Regulations and to provide proper and safe facilities for the children that reside in the Dupont Circle area. There is desperate need to provide day care facilities for the children of working parents. Addressing the needs of these young families is essential in maintaining the residential character of the neighborhood as mandated in the Zoning Regulations. The granting of this request will help to provide an important social need and help to benefit the entire city by keeping young families in Washington. The Board concurs with the recommendation of the DCCA.

18. Advisory Neighborhood Commission 1D, by letter dated September 5, 1984, reported that on March 22, 1984, Sheridan-Kalorama ANC 1D met in a Commission and Town Hall Meeting to consider the special exception requested in this application. The full Commission was present. After discussion and a brief presentation by representatives of the School for Friends, the Commission voted unanimously to

support the application. The main reasons for supporting Application No. 14172 were as follows:

- A. The School for Friends agreed to give priority to children of residents of Sheridan-Kalorama, thus fulfilling the requirement of service to the neighborhood.
- B. There is more than adequate off-street parking available on the site at the Church of the Pilgrims.

The Board concurs with the ANC recommendation.

19. Ms. Berna Osnos, a property owner residing at 2210 Q Street, N.W., which is adjacent to the applicant's premises, objected to the application on the grounds that the applicant violates the D.C. health regulations governing trash disposal and collection. The Church has placed a trash dumpster in the public alleyway which borders the subject site and Ms. Osnos' property. The dumpster is located in the alley. The placement of the dumpster on public property violates D.C. health regulations, which provide that trash receptacles may be placed on public property on the days of collection. Except for this permission, there is no authority to place dumpsters on public property. Additionally, Ms. Osnos alleged that the Church dumpster represents a health hazard. Ms. Osnos testified that she has seen rodents in the vicinity of the dumpster. The dumpster is left open on occasion. Photographs were submitted to the record reflecting these conditions and also to show mattresses discarded allegedly by the applicant. It was the opposition's fear that expanded use of the applicant's premises as a child development center would result in increased trash problems, unless the applicant removed its dumpster onto its own property. The applicant has a large parking lot on its own premises, with easy access to 22nd Street. There is a gently sloping driveway exiting from the applicant's parking lot onto 22nd Street. The Church has ample space on the parking lot for the dumpster, and would have no difficulty moving the dumpster to 22nd Street for pick-up on trash collection days. Ms. Osnos requested the Board to condition granting of the application on removal of the applicant's dumpster onto its own private property. The Board concurs with the opposition and will so condition below its grant of this application.

20. Harriett Hubbard appeared in opposition to the application as a representative of the Residential Action Coalition (RAC). By letter of September 22, 1984, the President of the RAC advised the Board that Mrs. Hubbard had no authority to represent the RAC. In view of the unauthorized appearance of the witness, the Board did not consider the merits of her testimony.

CONCLUSIONS OF LAW AND OPINION:

Based upon the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 3101.41 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met its burden of proof under Paragraph 3101.41. The proposed center is capable of meeting licensing requirements. There will be no objectionable or unsafe traffic conditions created. There are sufficient parking spaces available in the Church parking lot. As conditioned below, there will be no objectionable impact from the proposed use.

The Board further concludes that as conditioned below the relief can be granted as in harmony with the general purposes and intent of the Zoning Regulations without any adverse affect on neighboring property. The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is granted subject to the following CONDITIONS:


1. Approval shall be for a period of two years from the date of this Order.
2. Operation of the facility shall be limited to the School for Friends.
3. The number of children at the facility shall not exceed twenty-four.
4. Outdoor play times shall be staggered so that the center operates in compliance with the square foot per child play area requirements of the licensing regulations.
5. The applicant's trash dumpster, presently located in the alley in public space, shall be relocated onto the applicant's property. The dumpster shall be kept closed and the area surrounding the dumpster shall be kept free of refuse and debris at all times.
6. The applicant shall provide five on-site parking spaces, exclusively for use by the School for Friends, during all hours of operation of the facility. Those spaces shall be marked as reserved for the School for Friends.

7. The facility shall meet all applicable code and licensing requirements.

VOTE: 4-0 (Maybelle T. Bennett, William F. McIntosh, Douglas J. Patton and Carrie L. Thornhill to grant; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 9 NOV 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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